

**TOWN OF DAVIE**  
**TOWN COUNCIL AGENDA REPORT**

**TO:** Mayor and Councilmembers

**FROM/PHONE:** Patrick Lynn, Police Chief/(954)693-8320

**PREPARED BY:** Police Administration/code/af

**SUBJECT:** Resolution

**AFFECTED DISTRICT:** 1

**ITEM REQUEST:** Schedule for Council Meeting

**TITLE OF AGENDA ITEM:** MITIGATION REQUEST - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A REQUEST FOR MITIGATION OF CODE COMPLIANCE LIENS IN CASE NO. 06-1225 FROM \$178,000.00 IN AMOUNT TO \$4,000.00; AND PROVIDING AN EFFECTIVE DATE.

**REPORT IN BRIEF:** The Code Compliance Division initiated a code compliance case on August 25, 2006, related to the failure of the property owner to adhere to code section 11-17, 8-16, 12-33(U) and 12-33(S)(2). On March 23, 2007 the Towns Special Magistrate issued an order Imposing Municipal Code Enforcement Lien and Administrative fine in the amount of \$178,000.00 for 178 days of non compliance for the above four (4) violations. The Town of Davie Code Compliance Division has determined that the violation of the above code sections have been corrected and the property is in compliance.

**PREVIOUS ACTIONS:** Resolution R-2009-137 dated June 17, 2009.

**CONCURRENCES:**

**FISCAL IMPACT:** not applicable

Has request been budgeted? n/a

If yes, expected cost: \$

Account name and number:

If no, amount needed: \$

What account name and number will funds be appropriated from:

Additional Comments:

**RECOMMENDATION(S):** Motion to approve resolution

**Attachment(s):** Resolution, Mitigation Synopsis, Mitigation Application Review Forms, Correspondence from Attorney John Rayson and Attorney Larson & Jones representing Mr.Emerson, Chase Bank Mortgage Loan Statement & Paperwork and Broward County 2009 Property Trim Notice.

RESOLUTION \_\_\_\_\_

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A REQUEST FOR MITIGATION OF CODE COMPLIANCE LIENS IN CASE NO. 06-1225 FROM \$178,000.00 IN AMOUNT TO \$4,000.00; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, and Michael J. Emerson have requested a mitigation of a code compliance lien from

\$178,000.00; and

WHEREAS, the Town of Davie Code Compliance Division has determined that the violation of code sections 11-17, 8-16, 12-33(U) and 12-33(S)(2) have been corrected; and

WHEREAS, the Town Council is agreeable to such mitigation of the code compliance lien.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

SECTION 1. That the certain code compliance lien arising out of Case No. 06-1225 in the amount of \$178,000.00 against Michael J. Emerson, is hereby mitigated in amount to \$4,000.00.

SECTION 2. That this mitigated amount of \$4,000.00 be paid to the Town within 45 days of the enactment of this Resolution. Should this amount of \$4,000.00 not be paid within the specified time the lien shall revert to the original amount of \$178,000.00.

SECTION 3. This resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2010

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MAYOR/COUNCILMEMBER

ATTEST:

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TOWN CLERK

APPROVED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2010

**Code Compliance Mitigation Case No. 06-1225  
Synopsis**

- 1. Town Council District Number:** 1
- 2. Property Location:** 4240 SW 63 Avenue
- 3. Notice of Violation Issuance Date:** August 25, 2006
- 4. Code Violation Sections:**
  - 11-17 Derelict Vehicle
  - 11-17 Derelict Property Prohibited
  - 8-16 Building Permit Required
  - 12-33(U) Nuisance
  - 12-33(S)(2) Landscape Maintenance
- 5. Notice of Violation Hearing Date:** September 5, 2006  
Special Magistrate Final Order issued  
and respondent complied. *NOTE: Final  
Order remains in force for five (5) years  
from date of issuance.*
- 6. Non-Compliance Notice of Violation  
Issuance date:** March 23, 2007
- 7. Non-Compliance Hearing Date:** April 3, 2007  
Special Magistrate Order Imposing  
Municipal Code Enforcement Fine for  
178 days of non compliance  
(10-06-2006 thru 4-02-2007)
- 8. Total Fine:** Four (4) violations fined @ \$178,000.00  
\$250/day per violation for a total of  
(178) days of non compliance
- 9. Mitigation Guideline Amount:** \$143,410.98
- 10. Special Magistrate Mitigation Hearing:** February 24, 2009
- 11. Town Base Fee Costs:** \$1,300.00
- 12. Attachments:**
  - 1. Town Attorney Legal Opinion
  - 2. Letter from Steven Jones, attorney for  
Michael Emerson

**TOWN OF DAVIE  
CODE COMPLIANCE DIVISION  
MITIGATION APPLICATION REVIEW FORM**

**SECTION 1:** (To be completed by Code Compliance Supervisor)

1. Name of Respondent(s)/Applicant(s): Michael J. Emerson
2. Case Number: Code Compliance Case no. 06-1225
3. Total amount of Code Compliance Lien(s)/Administrative Fine(s): \$178,000.00
4. Is Respondent(s)/Applicant(s) in compliance with applicable Town Code Sections?   X   Yes        No  
(If the answer to Question 4 is no, do not complete Question 5, as compliance is a prerequisite to further processing.)
5. Mitigation amount recommended by the Town Council approved guidelines:   \$143,410.98

**SECTION 2:** (To be completed by Respondent(s)/Applicant(s))

1. Please state any and all reasons why the Town should agree to mitigate the Code Compliance Lien(s)/Administrative Fines:

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Signature: \_\_\_\_\_

Date: \_\_\_\_\_

2. Please indicate the amount which you request the Code Compliance Lien(s) be mitigated to: \$ \_\_\_\_\_

**NOTE:** The Code Compliance Division will submit your request to the Town Council to either accept or deny your mitigation amount; if your request is less than the mitigation guideline amount, the Code Compliance Division shall automatically make a recommendation to deny your mitigation request. In the event you do not agree with the mitigation guideline amount as set forth in Section 1 above, the matter will be referred to a Special Magistrate who will make a recommendation to the Town Council. The decision to grant or deny the request for mitigation will be made by the Town Council. In the event the Town approves your mitigation request, you must pay the mitigated amount to the Town of Davie within 45 days of Town Council approval or the Code Compliance Lien(s)/Administrative Fine(s) will remain in effect in the original amount.

**SECTION 3:** (To be authorized by Department Director)

The Code Compliance Division recommends that the specific mitigation request made by the Respondent(s)/Applicant(s), in Section 2, to mitigate the Code Compliance Lien(s)/Administrative Fine(s) in Case Number #06-1225 from a total of \$ 143,410.98 to the amount requested by the Respondent(s)/Applicant(s) which is \$ \_\_\_\_\_, may be considered for approval.

\_\_\_\_\_  
Code Compliance Official

\_\_\_\_\_  
Date

**TOWN OF DAVIE  
CODE COMPLIANCE DIVISION  
MITIGATION APPLICATION REVIEW FORM**

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2. Case Number: Code Compliance Case no. 06-1225
3. Total amount of Code Compliance Lien(s)/Administrative Fine(s): \$178,000.00
4. Is Respondent(s)/Applicant(s) in compliance with applicable Town Code Sections? X Yes      No  
(If the answer to Question 4 is no, do not complete Question 5, as compliance is a prerequisite to further processing.)
5. Mitigation amount recommended by the Town Council approved guidelines: \$143,410.98

**SECTION 2:** (To be completed by Respondent(s)/Applicant(s))

1. Please state any and all reasons why the Town should agree to mitigate the Code Compliance Lien(s)/Administrative Fines:

See attached letter of 09/09/09, evidence  
of mortgage indebtedness, "short-sale"  
contract

Signature: Michael J. Emerson

Date: 6-6-10

2. Please indicate the amount which you request the Code Compliance Lien(s) be mitigated to: \$4,000.00

**NOTE:** The Code Compliance Division will submit your request to the Town Council to either accept or deny your mitigation amount. If your request is less than the mitigation guideline amount, the Code Compliance Division shall automatically make a recommendation to deny your mitigation request. In the event you do not agree with the mitigation guideline amount as set forth in Section 1 above, the matter will be referred to a Special Magistrate who will make a recommendation to the Town Council. The decision to grant or deny the request for mitigation will be made by the Town Council. In the event the Town approves your mitigation request, you must pay the mitigated amount to the Town of Davie within 45 days of Town Council approval or the Code Compliance Lien(s)/Administrative Fine(s) will remain in effect in the original amount.

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[Signature]  
Code Compliance Official

6/7/10  
Date

The following provisions are made part of the Contract for Sale and Purchase or Residential Sale and Purchase Contract between Michael J. Emerson (Seller) and FLORIDIAN COASTAL PROPERTIES LLC (Buyer) concerning the Property located at 4240 SLO 63<sup>RD</sup> AVENUE DAVID, FL 33314

1. **Approval of the Lender:** This Contract is contingent upon: (a) the Seller's lender(s) and/or other lien holder(s) (collectively the "Lender") approval of the purchase price, terms of the Contract and the HUD-1 settlement statement (b) the Lender's agreement to accept a payoff which is less than the balance due on the loan or other indebtedness and (c) the Lender's release and satisfaction of the mortgage(s) and/or other lien(s) upon receipt of discounted payoff. If Seller does not deliver written notice to Buyer that Lender has approved the purchase price and contract terms within \_\_\_\_\_ days from Effective Date ("Approval Deadline") (45 days if left blank, either party may within five (5) days thereafter cancel the Contract by delivering written notice to the other.
2. **Effective Date and Time for Acceptance:** The Effective Date and the time for acceptance of all offers and counteroffers under the Contract shall be computed as set forth in the Contract.
3. **Time periods: (check one)**  
☐ Except for Approval Deadline, all time periods for inspections, contingencies, deposit(s) and other obligations under the Contract shall commence from the date Seller delivers written notice to Buyer that the Contract has been approved by the Lender.  
☐ All time periods under the Contract shall commence from the Effective Date under the Contract.  
Buyer and Seller agree to extend the Closing Date in the Contract, not to exceed \_\_\_\_\_ days (10 days if left blank) if the Lender requires additional time to complete the short sale transaction.
4. **Acknowledgement by Buyer:** Buyer acknowledges that the Lender is not a party to the Contract and therefore is not obligated to approve the Contract. Buyer further acknowledges that Seller and Broker are not liable for delays caused by Lender, failure of the Lender to approve the Contract, failure of the Lender to complete the Short Sale after approving the Contract or any costs and expenses (such as payments for loan applications, inspections, and appraisals) associated with the delays or Lender's failure to approve the Contract or complete the Short Sale after approving the Contract.
5. **Multiple Offers:** Unless otherwise agreed by Buyer and Seller in writing, Seller may continue to market the Property for sale and accept other offers and submit those accepted offers to the Lender.

This addendum amends the above-referenced Contract between Seller and Buyer. All other non-conflicting provisions of the agreement remain in full force and effect.

SELLER

DATE

SELLER

DATE

BUYER

DATE

BUYER

DATE





OFFICE OF THE TOWN ATTORNEY  
JOHN RAYSON

2400 EAST OAKLAND PARK BLVD. #200 • FORT LAUDERDALE • FLORIDA 33306  
PHONE: 954.566.8855 • FAX: 954.566.8902  
E-MAIL: JOHN\_RAYSON@DAVIE-FL.GOV

September 21, 2009

Gary Shimun, Town Administrator  
6591 Orange Drive  
Davie, FL 33314

RE: Code lien on property located at 4240 SW 63<sup>rd</sup> Ave (Owner Michael J. Emerson)  
C.N.: 0120-090909

Dear Gary,

Thank you for your request for a legal opinion on this matter. In preparation for this request I have researched the real estate records, our lien ordinance, encumbrances on the property, and Florida Statutes. I also remember this case from the mitigation petition filed by Mr. Emerson which was rejected by Town Council. Generally, the purpose of Code Enforcement fines and liens is to compel compliance rather than as a penalty. Chapter 162 Florida Statute provides the following purpose for local boat Code Enforcement Boards: "to provide an equitable expeditious, effective and inexpensive method of enforcing... municipal... codes." The property has an assessed value of \$103,200 per the attached property appraiser assessment. A copy of the mortgage with a balance of \$92,000 per Mr. Emerson's attorney is also attached. Davie's lien is \$178,000. In a foreclosure action it would be wiped out. It is not covered by our recent super priority lien ordinance. If the property is assessed at \$103,200 and the mortgage balance is \$92,000 the maximum equity would be \$11,200. A short sale will wipe out Davie's lien. Under these circumstances the Town should accept Emerson's offer of \$4,000 or counter offer at \$11,000 representing his total equity in the property. As always, should you have any questions regarding this opinion please do not hesitate to contact me.

Very truly yours,

A handwritten signature in cursive script, appearing to read "John C. Rayson".

John C. Rayson

JCR/lr

FROM : LARSON AND JONES

FAX NO. : 3057545426

Nov. 16 2009 01:03PM P1

9889 NE 2<sup>nd</sup> Avenue, Suite 216, Miami Shores, FL 33138  
Tel. (305) 751-1851; Fax (305) 754-5426  
E-mail - [jones@lty@mindspring.com](mailto:jones@lty@mindspring.com)

Steven L. Jones, Esq.

**FAX**

To: JOHN RAYSON, ESQ. From: STEVEN L. JONES  
Fax: 1-954-566-8902 Pages: 1  
Phone: Date: 11/16/09  
Re: MICHAEL J. EMERSON; CODE CC:  
COMPLIANCE LIEN TOWN OF DAVIE;  
4240 SW 83 AVENUE

☐ Urgent ☐ For Review ☐ Please Comment ☒ Please Reply ☐ Please Recycle

MY LAST COMMUNICATION TO YOU WAS BACK ON 09/24/09 WHEN I PROVIDED THE LAST INFORMATION YOU WERE LOOKING FOR AS PART OF RENDERING AN OPINION TO THE CITY OF DAVIE RELATIVE TO MY CLIENT'S MITIGATION REQUEST PRESENTED TO THE TOWN'S ADMINISTRATOR BY LETTER OF 09/09/09.

PLEASE ADVISE ME AS TO WHETHER YOU HAVE RENDERED YOUR OPINION TO THE TOWN AND WHEN I MIGHT EXPECT TO RECEIVE SOME TYPE OF FORMAL RESPONSE OR DETERMINATION SO THAT MY CLIENT CAN POSSIBLY RESOLVE THIS MATTER.

THANK YOU IN ADVANCE FOR YOUR COOPERATION AND, HOPEFULLY, REPLY.

The information contained in the facsimile message is attorney privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and return the original message to us at 9889 NE 2<sup>nd</sup> Avenue, Ste. 216, Miami Shores, FL 33138 via the US Postal Service. Thank you.

LARSON AND JONES  
Attorneys at Law  
9999 NE 2<sup>nd</sup> Avenue, Suite 216  
Miami Shores, FL 33138  
Tel. (305) 751-1851  
FAX (305) 754-5426  
Email - [jonesatl@mindspring.com](mailto:jonesatl@mindspring.com)

RECEIVED  
SEP 10 2009

Gustave W. Larson (Retired)  
Steven L. Jones

September 9, 2009

Mr. Gary Shimun  
Administrator, Town of Davie  
6591 Orange Drive  
Davie, FL 33314

RE: Property at 4240 SW 63<sup>rd</sup> Avenue  
Owner - Michael J. Emerson  
Town's Order Imposing Municipal Code Compliance Lien

Dear Mr. Shimun:

This office represents Michael J. Emerson. Prior to this Mr. Emerson had himself attempted, without success, to obtain reasonable mitigation of the subject lien totaling \$178,000.00. Since the subject Order, going back to April 2007, the subject property has been maintained and remains in compliance. With respect to bringing the property into compliance, Mr. Emerson expended in excess of \$20,000.00. The conditions that ran afoul of the Town's ordinances were not of Mr. Emerson's doing. Nonetheless, the only "relief" Mr. Emerson has seen from his efforts is the mitigation of the stated amount to \$143,410.98. Of this amount, the Town "expenses" are \$1,010.98.

As the Town's Administrator, I am sure that you have to deal with, on a daily basis, the reality of the economic downturn and the profound effect upon the Town's finances, etc. This, which I am certain that you are fully aware, has also had a profound effect on real estate values. In this instance, my client has suffered significantly. Mr. Emerson can verify that the property is worth \$80,000.00, at best. The property is currently encumbered by a mortgage with an approximate principal balance of \$92,000.00. As this relates to the Town's Order, the mortgage has a prior lien superior in dignity to the lien held by the Town. As such, and if Mr. Emerson were to "throw up his hands" and walk away from the property, the ensuing mortgage foreclosure would wipe out not only the ownership interest of my client but any lien interest held by the Town. As it stands, Mr. Emerson has been forced to list the property for sale as a "short sale". Simply stated there is no equity in the property - none for Mr. Emerson and none for the Town. Even if the Town sought to enforce its lien through foreclosure, any result from such proceedings would leave the Town with a property subject to an existing mortgage in excess of the property's value. I would suggest that

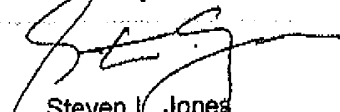
Mr. Gary Shimun  
Administrator, Town of Davie  
September 9, 2009  
Page 2, Cont'd

this would not be prudent considering the economic struggles already facing the Town of Davie.

On the other hand, Mr. Emerson understands that "walking away from the property" could have adverse effects for him as well. That being said, and considering the "scenario" set forth in the preceding paragraph, Mr. Emerson is prepared to offer \$4,000.00 (this is not a negotiating ploy; it is the most that he can consider under the circumstances) for the release of the Town's Order and resulting lien. This way the Town will be more than reimbursed for its expenses. This will enable my client to, perhaps (provided the existing mortgagee agrees to a "short sale"), sell the property, although he will not profit from this and will, at the end of day, still suffer a significant loss. However, the failure on the part of the Town to consider this proposal will leave Mr. Emerson with no other option than simply giving up. Such a result will leave the Town with nothing as well.

I hope that you will consider the foregoing and that I can have a response hereto at the earliest possible time. Thank you.

Sincerely Yours,



Steven L. Jones

CC: Client  
Hon. Judy Paul, Mayor



Broward County Property Appraiser's Network



Click here to display your 2009 TRIM Notice.

Site Address	4240 SW 83 AVENUE , DAVIE	ID #	5041 27 04 0280
Property Owner	EMERSON, MICHAEL J	Millage	2413
Mailing Address	27 GLEN COVE DR ARDEN NC 28704	Use	01

Legal Description	DAVIE FIRST ADD 6-39 B 15-6 B LOT 19 BLK 2
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Property Assessment Values					
Year	Land	Building	Just Value	Assessed / SOH Value	Tax
2009	\$44,720	\$58,480	\$103,200	\$103,200	
2008	\$50,030	\$77,850	\$127,880	\$127,880	\$2,868.88
2007	\$58,700	\$85,420	\$144,120	\$144,120	\$3,287.11

2009 Exemptions and Taxable Values by Taxing Authority				
	County	School Board	Municipal	Independent
Just Value	\$103,200	\$103,200	\$103,200	\$103,200
Portability	0	0	0	0
Assessed/SOH	\$103,200	\$103,200	\$103,200	\$103,200
Homestead	0	0	0	0
Add. Homestead	0	0	0	0
Wid/Vet/Dis	0	0	0	0
Senior	0	0	0	0
Exempt Type	0	0	0	0
Taxable	\$103,200	\$103,200	\$103,200	\$103,200

Sales History -- Search Subdivision Sales					Land Calculations		
Date	Type	Price	Book	Page	Price	Factor	Type
11/27/2002	SWD	\$71,000	34236	804	\$800	55.90	FF
9/9/2002	CET	\$100	33790	306			
12/4/1996	WD	\$75,000	25742	939			
1/1/1979	QCD	\$133	8673	771			
2/1/1979	WD	\$21,000					
					Adj. Bldg. S.F. (See Sketch)		912
					Eff. Year Built		1880

Special Assessments					
Fire	Garbage	Light	Drainage	Improvement	Safe
24	D		B		
R			B		
1					

"As Is" Contract For Sale And Purchase

"As Is"

1 PARTIES: Michael J. Emerson (Seller)  
2 and Floridian Coastal Properties LLC (Buyer)  
3 hereby agree that Seller shall sell and Buyer shall buy the following described Real Property and Personal Property (collectively "Property")  
4 pursuant to the terms and conditions of this Contract for Sale and Purchase and any riders and addenda ("Contract").

5 I. DESCRIPTION:  
6 (a) Legal description of the Real Property located in Broward County, Florida:  
7 Bayle First Add 6-39 B-15-6B Lot 19 Blk 2 (5041-27-04-0280)  
8 (b) Street address, city, zip, of the Property: 4240 SW 63rd Avenue, Davie, Florida 33314  
9 (c) Personal Property includes existing range(s), refrigerator(s), dishwasher(s), ceiling fan(s), light fixture(s), and window treatment(s) unless  
10 specifically excluded below.  
11 Other items included are: Entire Contents of House  
12  
13 Items of Personal Property (and leased items, if any) excluded are:  
14

15 II. PURCHASE PRICE (U.S. currency): \$ 45,000.00  
16 PAYMENT:  
17 (a) Deposit held in escrow by: upon acceptance (Escrow Agent) in the amount of (check subject to clearance) \$ 1,000.00  
18 Escrow Agent's address: Phone:  
19 (b) Additional escrow deposit to be made to Escrow Agent within days after Effective Date in the amount of \$  
20 (c) Financing in the amount of (Loan Amount) (see Paragraph IV below) \$  
21 (d) Other \$  
22 (e) Balance to close by cash, wire transfer or LOCALLY DRAWN cashiers or official bank check(s) subject to adjustments or provisions \$ 44,000.00

23  
24 III. TIME FOR ACCEPTANCE OF OFFER AND COUNTEROFFERS; EFFECTIVE DATE:  
25 (a) If this offer is not executed by and delivered to all parties OR FACT OF EXECUTION communicated in writing between the parties on or  
26 before 11/26/2009, the deposit(s) will, at Buyer's option, be returned and this offer withdrawn. Unless other-  
27 wise stated, the time for acceptance of any counteroffers shall be 2 days from the date the counteroffer is delivered.  
28 (b) The date of Contract (Effective Date) will be the date when the last one of the Buyer and Seller has signed or initialed this offer or the  
29 final counteroffer. If such date is not otherwise set forth in this Contract, then the "Effective Date" shall be the date determined above for  
30 acceptance of this offer or, if applicable, the final counteroffer.

31 IV. FINANCING:  
32 (a) This is a cash transaction with no contingencies for financing.  
33 (b) This Contract is contingent on Buyer obtaining written loan commitment which confirms underwriting loan approval for a loan to purchase  
34 the Property (Loan Approval) within days (if blank, then 30 days) after Effective Date (Loan Approval Date) for (CHECK ONLY  
35 ONE): ☐ a fixed, ☐ an adjustable, or ☐ a fixed or adjustable rate loan, in the Loan Amount (See Paragraph II(c)) at an initial interest rate not to  
36 exceed % and for a term of years. Buyer will make application within days (if blank, then 5 days) after Effective Date.  
37 BUYER: Buyer shall use reasonable diligence to obtain Loan Approval, notify Seller in writing of receipt of Loan Approval by Loan Approval  
38 Date, satisfy terms of the Loan Approval, and close the loan. Loan Approval which requires a condition related to the sale of other property shall  
39 not be deemed Loan Approval for purposes of this subparagraph. Buyer shall pay all loan expenses. Buyer authorizes the mortgage broker(s) and  
40 lender(s) to disclose information regarding the conditions, status, and progress of loan application and Loan Approval to Seller, Seller's attorney,  
41 real estate licensee(s), and Closing Agent.  
42 SELLER: If Buyer does not deliver to Seller written notice of Loan Approval by Loan Approval Date, Seller may thereafter cancel this Contract by  
43 delivering written notice ("Seller's Cancellation Notice") to Buyer, but not later than seven (7) days prior to Closing. Seller's Cancellation Notice shall  
44 notify Buyer that Buyer has three (3) days to deliver to Seller written notice waiving this financing contingency, or the Contract shall be cancelled.  
45 DEPOSIT(S) (for purposes of this Financing Paragraph IV(b) only): If Buyer has used reasonable diligence but does not obtain Loan Approval  
46 by Loan Approval Date, and thereafter either party elects to cancel this Contract, the deposit(s) shall be returned to Buyer. If Buyer obtains loan  
47 approval or waives this financing contingency, and thereafter the Contract does not close, then the deposit(s) shall be paid to Seller, provided how-  
48 ever, if the failure to close is due to: (i) Seller's failure of refusal to close or Seller otherwise fails to meet the terms of the Contract, or (ii) Buyer's lender  
49 fails to receive and approve an appraisal of the Property in an amount sufficient to meet the terms of the Loan Approval, then the deposit(s) shall be  
50 returned to Buyer.  
51 (c) Assumption of existing mortgage (see rider for terms) or  
52 (d) Purchase money note and mortgage to Seller (see "As Is" Standards B and K and riders, addenda, or special clauses for terms).

53 V. TITLE EVIDENCE: At least days (if blank, then 5 days) before Closing a title insurance commitment with legible copies of instruments listed as  
54 exceptions attached hereto ("Title Commitment") and, after Closing, an owner's policy of title insurance (see Standard A for terms) shall be obtained by:  
55 (CHECK ONLY ONE): ☒ (1) Seller at Seller's expense and delivered to Buyer or Buyer's attorney; or  
56 ☐ (2) Buyer at Buyer's expense.  
57 (CHECK HERE): ☐ If an abstract of title is to be furnished instead of title insurance, and attach rider for terms.

58 VI. CLOSING DATE: This transaction shall be closed and the closing documents delivered on 12/21/2009 ("Closing"), unless  
59 modified by other provisions of this Contract. In the event of extreme weather or other conditions or events constituting "force majeure", Closing will be  
60 extended a reasonable time until: (i) restoration of utilities and other services essential to Closing; and (ii) availability of Hazard Wind Flood or Homeowners  
61 insurance. If such conditions continue more than days (if blank, then 14 days) beyond Closing Date, then either party may cancel this Contract.



62 **VII. RESTRICTIONS, EASEMENTS, LIMITATIONS:** Seller shall convey marketable title subject to: comprehensive land use plans, zoning,  
63 restrictions, prohibitions and other requirements imposed by governmental authority; restrictions and matters appearing on the plat or otherwise  
64 common to the subdivision; outstanding oil, gas and mineral rights of record without right of entry; unplatted public utility easements of record  
65 located contiguous to real property lines and not more than 10 feet in width as to the rear or front lines and 7 1/2 feet in width as to the side  
66 lines; taxes for year of Closing and subsequent years; and assumed mortgages and purchase money mortgages, if any (if additional items, see  
67 addendum), provided, that there exists at Closing no violation of the foregoing and none prevent use of the Property for \_\_\_\_\_  
68 \_\_\_\_\_ (purposes).

69 **VIII. OCCUPANCY:** Seller shall deliver occupancy of Property to Buyer at time of Closing unless otherwise stated herein. If Property is intended  
70 to be rented or occupied beyond Closing, the fact and terms thereof and the tenant(s) or occupants shall be disclosed pursuant to "AS IS" Standard  
71 F. If occupancy is to be delivered before Closing, Buyer assumes all risks of loss to Property from date of occupancy, shall be responsible and liable  
72 for maintenance from that date, and shall be deemed to have accepted Property in its existing condition as of time of taking occupancy.

73 **IX. TYPEWRITTEN OR HANDWRITTEN PROVISIONS:** Typewritten or handwritten provisions, riders and addenda shall control all printed provisions  
74 of this Contract in conflict with them.

75 **X. ASSIGNABILITY (CHECK ONLY ONE):** Buyer ☐ may assign and thereby be released from any further liability under this Contract; ☐ may  
76 assign but not be released from liability under this Contract; or ☐ may not assign this Contract.

77 **XI. DISCLOSURES:**

78 (a) The Property may be subject to unpaid special assessment lien(s) imposed by a public body ("public body" does not include a  
79 Condominium or Homeowners' Association). Such lien(s), if any, whether certified, confirmed and ratified, pending, or payable in installments,  
80 as of Closing, shall be paid as follows: ☐ by Seller at closing ☐ by Buyer (if left blank, then Seller at Closing). If the amount of any  
81 assessment to be paid by Seller has not been finally determined as of Closing, Seller shall be charged at Closing an amount equal to the  
82 last estimate or assessment for the improvement by the public body.

83 (b) Radon is a naturally occurring radioactive gas that when accumulated in a building in sufficient quantities may present health risks to per-  
84 sons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida.  
85 Additional information regarding radon or radon testing may be obtained from your County Public Health Unit.

86 (c) Mold is naturally occurring and may cause health risks or damage to property. If Buyer is concerned or desires additional information  
87 regarding mold, Buyer should contact an appropriate professional.

88 (d) Buyer acknowledges receipt of the Florida Energy Efficiency Rating Information Brochure required by Section 653.906, F.S.

89 (e) If the Real Property includes pre-1978 residential housing, then a lead-based paint rider is mandatory.

90 (f) If Seller is a "common person," as defined by the Foreign Investment in Real Property Tax Act, the parties shall comply with that Act.

91 **(g) BUYER SHOULD NOT EXECUTE THIS CONTRACT UNTIL BUYER HAS RECEIVED AND READ THE HOMEOWNERS' ASSOCIA-  
92 TION/COMMUNITY DISCLOSURE.**

93 (h) **PROPERTY TAX DISCLOSURE SUMMARY:** BUYER SHOULD NOT RELY ON THE SELLER'S CURRENT PROPERTY TAXES AS THE AMOUNT  
94 OF PROPERTY TAXES THAT THE BUYER MAY BE OBLIGATED TO PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE OF OWNER-  
95 SHIP OR PROPERTY IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN HIGHER PROPERTY TAXES.  
96 IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT THE COUNTY PROPERTY APPRAISER'S OFFICE FOR INFORMATION.

97 **XII. MAXIMUM REPAIR COSTS: DELETED**

98 **XIII. HOME WARRANTY:** ☐ Seller ☐ Buyer ☐ N/A will pay for a home warranty plan issued by \_\_\_\_\_

99 at a cost not to exceed \$ \_\_\_\_\_

100 **XIV. INSPECTION PERIOD AND RIGHT TO CANCEL:** (a) Buyer shall have \_\_\_\_\_ days from Effective Date ("Inspection Period") within  
101 which to have such inspections of the Property performed as Buyer shall desire and utilities service shall be made available by the  
102 Seller during the Inspection Period. (b) Buyer shall be responsible for prompt payment for such inspections and repair of damage  
103 to and restoration of the Property resulting from such inspections and this provision (b) shall survive termination of this Contract.  
104 and (c) If Buyer determines, in Buyer's sole discretion, that the Property is not acceptable to Buyer, Buyer may cancel this Contract  
105 by delivering facsimile or written notice of such election to Seller prior to the expiration of the Inspection Period. If Buyer timely  
106 cancels this Contract, the deposit(s) paid shall be immediately returned to Buyer; thereupon, Buyer and Seller shall be released of  
107 all further obligations under this Contract, except as provided in this Paragraph XIV. Unless Buyer exercises the right to cancel  
108 granted herein, Buyer accepts the Property in its present physical condition, subject to any violation of governmental, building,  
109 environmental, and safety codes, restrictions or requirements and shall be responsible for any and all repairs and improvements  
110 required by Buyer's lender.

111 **XV. RIDERS; ADDENDA; SPECIAL CLAUSES:** CHECK those riders which are applicable AND are attached to and made part of this Contract:  
112 ☐ CONDOMINIUM ☐ V.A.T.H.A. ☐ HOMEOWNERS' ASSN. ☐ LEAD-BASED PAINT ☐ COASTAL CONSTRUCTION CONTROL LINE  
113 ☐ INSULATION ☐ EVIDENCE OF TITLE (SOUTH FLORIDA CONTRACTS) ☐ Other Comprehensive Rider/Provisions ☐ Addenda  
114 Special Clauses. Binder is refundable if the home is cancelled due to inspection or title defects.

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**XVI. "AS IS" STANDARDS FOR REAL ESTATE TRANSACTIONS ("AS IS" Standards):** Buyer and Seller acknowledge receipt of a copy  
of "AS IS" Standards A through Z on the reverse side or attached, which are incorporated as part of this Contract.



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THIS IS INTENDED TO BE A LEGALLY BINDING CONTRACT. IF NOT FULLY UNDERSTOOD,  
SEEK THE ADVICE OF AN ATTORNEY PRIOR TO SIGNING.

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THIS "AS IS" FORM HAS BEEN APPROVED BY THE FLORIDA ASSOCIATION OF REALTORS® AND THE FLORIDA BAR.  
Approval does not constitute an opinion that any of the terms and conditions in this Contract should be accepted by the parties in a  
particular transaction. Terms and conditions should be negotiated based upon the respective interests, objectives and bargaining  
positions of all interested persons.  
AN ASTERISK (\*) FOLLOWING A LINE NUMBER IN THE MARGIN INDICATES THE LINE CONTAINS A BLANK TO BE COMPLETED.

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MAF PAC 11-23-2009 [Signature] 11-21-09  
(BUYER) (DATE) (SELLER) (DATE)

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(BUYER) (DATE) (SELLER) (DATE)

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Buyers' address for purposes of notice Sellers' address for purposes of notice

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Phone

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BROKERS: The brokers (including cooperating brokers, if any) named below are the only brokers entitled to compensation in connection with  
this Contract.  
Name: Roberta Josephson Bob Wyman Properties  
Cooperating Brokers, if any: [Signature] Trent Head - agent  
954-610-9550